

*Reconciled. 3*

*7.* The method of claim ~~8~~ for suppressing Herpes simplex virus in the host.--

### REMARKS

With entry of this amendment, claims 5-7 are pending. Claims 1-4 have been rewritten as claims 5-7 in order to overcome 35 USC § 112, second paragraph rejections, and to further distinguish the claimed invention from the prior art. No new matter has been added. Reconsideration is requested.

Claim 2 was objected to as improperly failing to limit the subject matter of claim 1, from which it depends. It is believed that the new claims are free of this objection.

Claims 1-3 were rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent 5,663,209. It is respectfully requested that this rejection be held in abeyance until such time as the application is otherwise in condition for allowance. At that time, Applicant will consider filing a Terminal Disclaimer.

Claims 1-4 were rejected under 35 USC § 112, second paragraph, as being indefinite. The terms "undesired" and "functional equivalent" were considered by the Examiner to be unclear. Although applicant does not agree, the subject terms are not found in the presently pending claims.

Claims 1-4 were rejected under 35 USC § 102(e) as being anticipated by Sinnott et al. (U.S. Pat. No. 5,837,252). Sinnott et al. disclose a method of treatment using NDGA, which is not included in the presently pending claims. It is therefore submitted that the claims are free of this rejection.